

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ADOLFO JAVIER VILLA, aka,
RAMON VILLA CONTRERAS,

Petitioner,

vs.

ISIDRO BACA, *et al.*,

Respondents.

Case No. 3:14-cv-00343-HDM-VPC

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner. By order filed October 15, 2014, this Court directed the State to file a response to the petition within forty-five days. (ECF No. 3). On December 18, 2014, this Court granted respondents an extension of time until January 15, 2015, in which to file a response to the petition. (ECF No. 9).

On February 9, 2015, petitioner filed a motion “to move forward due to State’s failure to respond to my petition.” (ECF No. 10). In the motion, petitioner asks this Court to “move forward and grant petitioner’s petition.” Respondents have filed an opposition to petitioner’s motion. (ECF No. 11). Respondents explain that the missed filing deadline was due to a clerical error and respondents request an extension of time to respond to the petition. Meanwhile, on March 12, 2015, respondents filed a motion to dismiss the petition. (ECF No. 13).

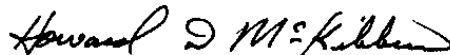
1 Petitioner's motion asking the Court to "move forward" and grant his federal habeas petition
2 is denied. The failure to respond to claims asserted in a habeas corpus petition does not
3 automatically entitle a petitioner to default judgment. *Gordon v. Duran*, 895 F.2d 610, 612 (9th Cir.
4 1990) (citations omitted). To the extent that petitioner's motion is construed as a motion seeking
5 default judgment, it is settled law that default judgments are not available in federal habeas corpus.
6 *See Townsend v. Sain*, 372 U.S. 293, 312 (1963); *see also Gordon*, 895 F.2d at 612. Petitioner's
7 motion to grant his petition, construed as a motion for default judgment, is denied. Good cause
8 appearing, respondents' request for an extension of time is granted, *nunc pro tunc*.

9 **IT IS THEREFORE ORDERED** that petitioner's motion to "move forward" and grant his
10 petition, construed as a motion for default judgment (ECF No. 10), is **DENIED**.

11 **IT IS FURTHER ORDERED** that respondents' request for an extension of time to respond
12 to the petition (ECF No. 11) is **GRANTED nunc pro tunc**.

13 **IT IS FURTHER ORDERED** that respondents' motion to dismiss (ECF No. 13) **SHALL**
14 **BE BRIEFED** in compliance with Rule 7-2 of the Local Rules of Civil Practice.

15 Dated this 13th day of March, 2015.

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19 HOWARD D. McKIBBEN
20 UNITED STATES DISTRICT JUDGE
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